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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/766,364	01/28/2004	Kenneth C. Waldman	SIM2-PT003.1	2887

3624 7590 09/22/2004

VOLPE AND KOENIG, P.C.
UNITED PLAZA, SUITE 1600
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PHILADELPHIA, PA 19103

EXAMINER

SANTOS, ROBERT G

ART UNIT	PAPER NUMBER
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3673

DATE MAILED: 09/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/766,364

Applicant(s)

WALDMAN ET AL.

Examiner

Robert G. Santos

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 January 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>01282004</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-4 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,845,349 to Tharalson et al. Tharalson et al. disclose all of the claimed limitations as recited in claims 1-4 and 11 (note especially Figures 1 & 9; column 5, lines 66-67; column 6, lines 1-3, 12-14, 30-38 & 59-67; column 7, lines 26-67; and column 8, lines 1-40) except for a condition wherein the rail (39) is substantially oval-shaped. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the rail of Tharalson et al. '349 such that it were substantially oval-shaped (or such that it possessed a shape other than rectangular) since such a modification would have generally been recognized as being within the level of ordinary skill in the art.

3. Claims 5-7 and 12-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tharalson et al. '349 in view of U.S. Patent No. 6,112,347 to Tharalson et al. Tharalson et al. '349 are considered to disclose all of the claimed limitations as recited in claims 5-7 and 12-14 (see also Figures 14-18; column 8, lines 52-67; and column 9, lines 1-32) except for the use of a support provided with a height adjusting means. Tharalson et al. '347 provide the basic teaching

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of a combination sleeper structure (10) comprising a support (38) provided with a height adjusting means (98). Since it would be advantageous to provide the combination sleeper structure of Tharalson et al. '349 with a support having a height adjusting means in order to allow the height of the structure to be readily adjusted to accommodate beds and adult caregivers of varying heights, the skilled artisan would have found it obvious at the time the invention was made to provide the combination sleeper structure of Tharalson et al. '349 with a support provided with a height adjusting means as taught by Tharalson et al. '347.

4. Claims 8-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tharalson et al. '349 in view of Tharalson et al. '349 in view of U.S. Patent No. 6,588,033 to Welsh, Jr. et al. Tharalson et al. '349 do not specifically disclose the use of an open weave mesh fabric storage basket mounted upon the support and beneath the board. Welsh, Jr. et al. provide the basic teaching of a support structure (20) provided with an open weave mesh fabric storage basket (100) mounted thereon and beneath a user supporting surface (22) thereof. The skilled artisan would have found it obvious at the time the invention was made to provide the combination structure of Tharalson et al. '349 with an open weave mesh fabric storage basket mounted upon the support and beneath the board in order to provide a simple, flexible and lightweight means for conveniently holding various items adjacent to the structure as desired.

With regards to claim 10, Welsh, Jr. et al. also provide the basic teaching of a hood (110) removably mounted to an upper rail (64, 66) thereof. The skilled artisan would have also found it obvious to provide the combination structure of Tharalson et al. '349 with a hood removably

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mounted upon the rail in order to provide a simple means for protecting an infant placed within the structure as desired.

Conclusion


5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Zhang et al. '301, Waldman et al. '949, Tharalson et al. '264, Waldman '574, LaMantia '083, Glover et al. '823, Glover et al. '107, Cheng '150, Glover et al. '840, Glover et al. '024, Gerhart '548, Gerhart '216, Gerhart et al. '730, Dillner '625, Stratton '149, LaMantia '707, Lawhorn '788, Mariol '978, LaMantia '584, Riegel '484, Mahoney '340, Gays et al. '349, Andrews et al. '442, Ruiz '331, Hrinsin '659 and Riter '737.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert G. Santos whose telephone number is (703) 308-7469. The examiner can normally be reached on Tues-Fr and first Mondays, 10:30 a.m. to 8:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Heather C. Shackelford can be reached on (703) 308-2978. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Robert G. Santos
Primary Examiner
Art Unit 3673

R.S.
September 16, 2004